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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/848,573	05/03/2001	Cary Lee Bates	ROC920010064US1	6829
46797	7590	12/12/2007	EXAMINER	
IBM CORPORATION, INTELLECTUAL PROPERTY LAW DEPT 917, BLDG. 006-1 3605 HIGHWAY 52 NORTH ROCHESTER, MN 55901-7829			ELISCA, PIERRE E	
			ART UNIT	PAPER NUMBER
			3621	
			MAIL DATE	DELIVERY MODE
			12/12/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/848,573	<b>Applicant(s)</b> BATES ET AL.	
	<b>Examiner</b> Pierre E. Elisca	<b>Art Unit</b> 3621	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 September 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7, 10, 13-15, 17, 18, 23, 24, 26, 28, 29, 31, 33 and 34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 10, 13-15, 17, 18, 23, 24, 26, 28, 29, 31, 33 and 34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

1. This communication is in response to Applicant's arguments filed on 09/17/2007.
2. Claims 1-7, 10, 13-15, 17, 18, 23, 24, 26, 28, 29, 31, and 33-34 remain pending.
3. The rejection to claims 1-7, 10, 13-15, 17, 18, 23, 24, 26, 28, 29, 31, and 33-34 under 35 U.S.C. 102 (e) as being anticipated by Newell William C. et al (U.S. Pat. No. 5,159, 560) as set forth in the Office action mailed on 06/15/2007 is maintained.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-7, 10, 13-15, 17, 18, 23, 24, 26, 28, 29, 31, and 33-34 are rejected under 35 U.S.C. 102 (e) as being anticipated by Newell William C. et al (U.S. Pat. No. 5,159, 560).

As per claims 1-7, 10, 13-15, 17, and 18 Newell discloses a vending machine network which includes automatic inventory management, billing management and system

maintenance. A system 100 includes a plurality of vending machine (e.g. vending machines 104-109) which are preferably adapted for renting articles such as videotapes, discs, cartridges, etc.,. Each vending machine (104-109) in the system 100 is capable of autonomous operation and includes means for receiving and dispensing articles, means for tracking which inventory items have been rented or are in stock, means for monitoring operational characteristics of the vending machine. Furthermore, the inventive concept of Newell also allows a number of vending machines, operating in diverse locations, to be used for dispensing and retrieving articles while allowing an article acquired from one vending machine to be returned to another in the system. Accordingly, it is inherent to recognize that the system of Newell is also capable of checking availability of one other vending machine (e.g. 104-109) see., Newell abstract, col 3, lines 42-67, col 4, lines 30-59, col 13- col 15. The inventive concept of Newell is readable as Applicant's claimed invention wherein said receiving, at a vending machine in the network of vending machines, a purchase order for the item, the vending machine being configured to dispense at least one type of item when stocked with the at least one item, the vending machine being configured to dispense at least one type of item when stocked with the at least one item, in response to receiving the purchase order, transmitting a request for the item via a network connection established through a network interface of the vending machine, and receiving, at the vending machine, a response to the request indicative of whether the item is available in at least one other vending machine configured to dispense the item when stocked with the item, whereby a user can retrieve the item at the at least one other vending machine when the item is

available at the at least one other vending machine.

As per claims 23, 24, 26, 28, 29, 31, and 33-34 Newell discloses a vending machine network which includes automatic inventory management, billing management and system maintenance. A system 100 includes a plurality of vending machine (e.g. vending machines 104-109) which are preferably adapted for renting articles such as videotapes, discs, cartridges, etc.. Each vending machine (104-109) in the system 100 is capable of autonomous operation and includes means for receiving and dispensing articles, means for tracking which inventory items have been rented or are in stock, means for monitoring operational characteristics of the vending machine. Furthermore, the inventive concept of Newell also allows a number of vending machines, operating in diverse locations, to be used for dispensing and retrieving articles while allowing an article acquired from one vending machine to be returned to another in the system. Accordingly, it is inherent to recognize that the system of Newell is also capable of checking availability of one other vending machine (e.g. 104-109) see., Newell abstract, col 3, lines 42-67, col 4, lines 30-59, col 13- col 15. The inventive concept of Newell is readable as Applicant's claimed invention wherein said a program contained on the computer readable medium which, when read from the computer readable medium and executed by a processor located in a vending machine in a network of vending machines, performs an operation, receiving a purchase order for the item, in response to receiving the purchase order, transmitting a request for the item via a network connection established through a network interface of the vending machine, and

receiving, at the vending machine, a response to the request indicative of whether the item is available in at least one other vending machine configured to dispense the item when stocked with the item, whereby a user can retrieve the item at the at least one other vending machine when the item is available at the at least one other vending machine.

#### RESPONSE TO ARGUMENTS

6. Applicant's arguments with respect to claims 1-7, 10, 13-15, 17, 18, 23, 24, 26, 28, 29, 31, and 33-34 have been fully considered but they are not persuasive.

#### REMARKS

7. In regard to Applicant's arguments filed on 09/17/2007, Applicant argues that the prior art of record Newell does not disclose "receiving, at the vending machine, a response to the request indicative of whether the item is available in at least one other vending machine configured to dispense the item when stocked with the item, whereby a user can retrieve the item at the at least one other vending machine when the item is available at the at least one other vending machine". However, the Examiner respectfully disagrees with Applicant's characterization of the prior art. As described above, Newell discloses a vending machine network which includes automatic inventory management, billing management and system maintenance. A system 100 includes a plurality of vending machine (e.g. vending machines 104-109) which are preferably adapted for renting articles such as videotapes, discs, cartridges, etc,. Each vending

machine (104-109) in the system 100 is capable of autonomous operation and includes means for receiving and dispensing articles, means for tracking which inventory items have been rented or are in stock, means for monitoring operational characteristics of the vending machine. Furthermore, the inventive concept of Newell also allows a number of vending machines, **operating in diverse locations**, to be used for dispensing and retrieving articles **while allowing an article acquired from one vending machine to be returned to another in the system (see., Newell, col 1, lines 40-53)**. Accordingly, it is inherent to recognize that the system of Newell is also capable of checking availability of one other vending machine (e.g. 104-109) see., Newell abstract, col 3, lines 42-67, col 4, lines 30-59, col 13- col 15.

### ***Conclusion***

**8. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

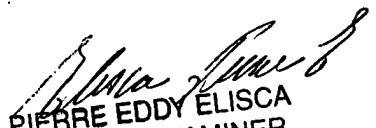
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pierre E. Elisca whose telephone number is 571 272 6706. The examiner can normally be reached on 6:30 to 5:00. Patents and hoteling.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Fischer can be reached on 571 272 6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
PIERRE EDDY ELISCA  
PRIMARY EXAMINER  
TECHNOLOGY CENTER 3600

December 04, 2007